

PROCEDURAL RULES
OF THE
DEKALB COUNTY BOARD OF ETHICS
AS AMENDED THROUGH FEBRUARY 9, 1993
EFFECTIVE FEBRUARY 9, 1993

I. **MEETINGS**

The Board of Ethics of DeKalb County ("Board") will meet at least quarterly on the second Wednesday of February, May, August, and November each year unless otherwise agreed to by the Board. The meetings shall be at 7:00 p.m. and shall be held at the site designated by the Board. The Board shall select at its fourth regular meeting of each year a chair, vice-chair and secretary from among its members to serve a one-year term during the following calendar year and shall fill any ensuing vacancy in these positions at the next meeting following the occurrence of the vacancy. In the event the chair is absent from a meeting or otherwise unavailable to perform his or her duties, the vice-chair shall perform such duties. The chair or any two members of the Board may call additional meetings as needed, so long as the request for an additional meeting is made in writing with at least three business days notice provided to all Board members. The chair shall conduct all meetings and shall determine and prepare the agenda to be acted upon at each meeting of the Board. The chair shall place on the agenda any item requested by any member of the Board. The chair shall place on the agenda all written complaints received by the Board at least seven (7) days prior to a meeting. The secretary shall cause to be made an accurate record of all the proceedings of the Board, and shall maintain a copy thereof. The official copy of all records of the Board shall be maintained by the clerk of the governing authority.

II. **QUORUM**

Four members of the Board shall constitute a quorum. The adoption of an advisory opinion shall require four (4) affirmative votes. Any action to reprimand, suspend from office for up to thirty (30) days, or to remove a member of the governing authority, shall require five (5) affirmative votes

III. ADVISORY OPINIONS

- A. Any person desiring an advisory opinion regarding the interpretation and application of the code of ethics as set forth in Ga. L. 1990, p. 3900 *et. seq.*, as amended, or other applicable ethical standards, may submit a request to the Board. All requests must be in writing and signed by the person requesting an advisory opinion. Such requests should be addressed to the chair and mailed to the Board of Ethics of DeKalb County, Manuel J. Maloof Center, 1300 Commerce Drive, Decatur, Georgia 30030. Upon receipt, the chair shall provide copies of the request to all members of the Board.
- B. The Board shall consider any request for an advisory opinion at the next regularly scheduled meeting of the Board, so long as such request is presented to the Board at least ten (10) days in advance of such meeting. If a need for an earlier decision is shown, the chair may schedule a special meeting to consider requests for advisory opinions.
- C. The Board may, in its discretion, consider requests for advisory opinions based upon hypothetical facts or circumstances, so long as the Board is furnished with sufficient facts upon which it may reasonably consider such requests.
- D. Upon receipt of a written request for an advisory opinion, the Board in its discretion may request additional information as needed to render its opinion.
- E. All advisory opinions rendered by the Board shall be in writing, shall be approved by at least four (4) affirmative votes, shall be signed by the chair and attested by the secretary, shall be filed with the clerk of the governing authority, and shall be available to the public.

IV. COMPLAINTS AND INVESTIGATIONS

- A. Proceedings to determine whether any member of the governing authority has violated any provision of the code of ethics or is about to violate any such provision shall be initiated by written complaint as follows:

(1) Written Complaints

Any person desiring to make a complaint of a violation of the standards set forth in the code of ethics, Ga. Laws 1990, p. 3900 *et. seq.*, as amended, may do so by addressing the complaint to the Chair of the Board of Ethics, c/o Clerk of the Governing Authority, Manuel Maloof Center, 1300 Commerce Drive, Decatur, Georgia 30030. The clerk of the governing authority shall forward a copy of the complaint to the chair, who shall in turn forward copies to each of the Board members.

(2) Oral Complaints

Oral complaints will be received at any meeting of the Board. Ordinarily, the Board will not act upon an oral complaint at the same meeting at which it is received. An oral complaint must be reduced to writing and signed by the complainant in order for the Board to act upon it.

(3) Complaints by the Board

The Board may initiate an investigation as it deems necessary and a written complaint as deemed appropriate in accordance with the provisions of Ga. Laws 1990, p. 3900, *et. seq.*, as amended.

- B. Upon receipt of a written complaint other than one initiated by the Board, the Board shall review the complaint to determine if the complaint sets out a violation of the code of ethics. If the complaint does not on its face set out a violation of the code of ethics, the Board shall notify the complainant of that fact in writing, decline to take jurisdiction of the case, and shall send a copy of the complaint and the Board's response to the member of the governing authority who is the subject of the complaint. Where the complaint alleges a violation of the code of ethics, or upon the Board's own motion without a written complaint, the Board may make a preliminary investigation to determine whether to proceed with the hearing as set forth in item IV(C) hereinbelow. A complaint must be received at least seven (7) days prior to a meeting to be placed on the agenda for that meeting. The Board at any time may decide not to proceed with a complaint. In its investigation of a written complaint or upon its own motion to conduct an investigation, the Board may convene an informal hearing and request such information as may be needful to determine whether to take jurisdiction of a case. The complainant, if the board is investigating a written complaint, and the member of

the governing authority against whom a complaint was filed or whom the Board has decided on its own to investigate, shall be permitted to examine anyone who presents information and to present such information as he or she deems appropriate. Upon conclusion of the investigation, the Board shall determine whether there is sufficient evidence upon which a violation of the code of ethics may be found. If the Board finds that there is such sufficient evidence, then the Board shall take jurisdiction of the complaint and schedule a hearing as set forth in item IV(C) hereinbelow. If the Board finds that there is not sufficient evidence upon which a violation of the code of ethics may be found, then the matter shall be dismissed.

C. If the Board determines that it has jurisdiction over a complaint received by a third party or upon the issuance of a complaint by the Board, the Board shall prepare a notification of the complaint against a member of the governing authority which shall include the following:

1. A statement of the time, place, and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
3. A reference to the particular section of the statutes and rules involved;
4. A short and plain statement of the matters asserted, or if the Board is unable to state the matters in detail at the time, the notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;
5. A statement as to the right of any party to subpoena witnesses and documentary evidence through the Board; and
6. A statement that the member of the governing authority may file a written response within twenty (20) days of the mailing of the notification which will be considered by the Board along with the complaint and the notification to determine whether dismissal of the complaint is appropriate prior to the hearing.

- D. The notification prepared by the Board shall be mailed by certified mail, return receipt requested, to the member of the governing authority who is the subject of the complaint. Such member may respond to the notification by submitting a written response within twenty (20) days following the mailing of the notification from the Board. Any response submitted shall be filed with the clerk of the governing authority under seal and shall be immediately forwarded to the chair, who shall in turn forward copies to each of the Board members.
- E. If, upon receipt of the response of the member of the governing authority, the Board determines upon review of the complaint, notification, and the written response of the member of the governing authority that no violation of the code of ethics has occurred, the Board may in its discretion dismiss the complaint. If, however, the Board determines an allegation of a violation of the code of ethics warrants further investigation, the Board shall conduct a hearing as provided by the next section.
- F. The Board or the chair may from time to time set such schedules to receive responses and other written materials as are appropriate in the circumstances.

V. HEARINGS

- A. The Board shall conduct such hearings as it deems necessary to carry out its responsibilities regarding advisory opinions, complaints and its other functions.
- B. All hearings shall be open to the public if required by the Open Meetings Act, O.C.G.A. Chapter 14, or as may otherwise be determined by the Board.
- C. Prosecution of a complaint may be made by special counsel and/or investigator appointed by the Board.
- D. In those proceedings to determine whether a violation of the code of ethics has occurred, the member of the governing authority who is adversely affected shall have the right to be represented by counsel, to hear and examine the evidence and witnesses against the member of the governing authority, and to present evidence and witnesses in opposition or in extenuation.
- E. In those proceedings to determine whether a violation of the code of ethics has occurred, rules of evidence shall follow as closely as

possible the rules of the Administrative Procedures Act, O.C.G.A. § 50-13-1, *et. seq.* The chair shall determine all matters of evidence and procedure. All testimony shall be under oath.

- F. In those proceedings to determine whether a violation of the code of ethics has occurred, both sides may present opening statements to the Board. Thereafter, the complainant or the special counsel, as the case may be, shall present the case against the member of the governing authority first, and then the member of the governing authority may present his or her case. After the close of evidence, the complainant or special counsel, as the case may be, shall have the right to present opening and closing arguments. In those proceedings in which a complaint is made by the Board, or there is not otherwise a complainant or special counsel, the Board shall have the right to call such witnesses or present such evidence as it deems appropriate, and the member of the governing authority shall then have a right to present his or her case followed by the right of the member to make a closing argument to the Board.
- G. The person making the complaint, the person who is subject to the complaint and the Board may invite individuals to offer such evidence or present such materials as are relevant to the matter pending before the Board. At least one week prior to the hearing, the person making the complaint or the special counsel, as the case may be, and the person against whom the complaint is made, shall provide the clerk a list of witnesses or speakers who are expected to be present and testify.
- H. Any party to a proceeding or to the Board may subpoena any witness to appear and testify at any hearing conducted by the Board. Such subpoenas will be made available by the Board to any party upon request.
- I. Any Board member may ask questions of any person speaking or testifying.
- J. All proceedings at the hearing will be transcribed by a court reporter to be selected by the Board.

VI. DISCLOSURES

Any member of the governing authority who requests an opinion as provided for under the provisions of Ga. Laws 1990, p. 3905, Section (d), shall do so by sworn written statement. Any other disclosures required by Ga. Laws 1990, p. 3905, Section (d) shall be submitted by sworn written

statement. Such sworn statement shall be delivered or mailed to the Clerk of the Governing Authority, Manuel J. Maloof Center, 1300 Commerce Drive, Decatur, Georgia 30030, with respect to any request for an opinion under this section. The Board may conduct any investigation it deems appropriate or hold a hearing under and pursuant to the provisions of Section V of these procedures. In addition, the Board may in its discretion request additional information from the member of the governing authority requesting an opinion. Except for the valuation of the interest disclosed by a member of the governing authority, all such disclosures submitted by a member of the governing authority shall be a matter of public record and maintained in the official records of the clerk of the governing authority.

VII. BOARD EXPENDITURES

Any expenditure of budgeted funds for the operation of the Board shall be approved by the Board.

VIII. AMENDMENTS TO PROCEDURES

These procedures may be amended by the vote of a majority of the members of the full Board.